

EXHIBIT A

1

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 Case No. 05-44481

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6 In the Matter of:

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8 DELPHI CORPORATION,

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10 Debtor.

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13

14 United States Bankruptcy Court

15 One Bowling Green

16 New York, New York

17

18 March 19, 2008

19 10:09 AM

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21 B E F O R E:

22 HON. ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

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2 HEARING re Fourth Supplement to KECP Motion Seeking Authority
3 to Continue Short-Term At-Risk Performance Payment Program
4 ("AIP") For First Half of 2008

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6 HEARING re Motion for Order Under 11 U.S.C. § 1121(D) Extending
7 Debtors' Exclusive Periods Within Which to File and Solicit
8 Acceptances of Reorganization Plan

9

10 HEARING re Motion Pursuant to Fed. R. Bankr. P. 7004(A) and
11 9006(B)(1) and Fed. R. Civ. P. 4(M) to Extend Deadline
12 with Preservation of Estate Claims Procedures Order

13

14 HEARING re Expedited Motion for Order Under 11 U.S.C. §§ 105(A)
15 And 365 And Fed. R. Bankr. P. 6006 (i) Establishing Procedures
16 for Assumption and Assignment of Certain Omitted Executory
17 Contracts And Unexpired Leases in Connection with Sale of
18 Debtors' Steering and Halfshaft Business and (ii) Authorizing
19 Recovery of Excess Discount Rights

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21 HEARING re Debtors' Omnibus Objection to Claims for Post-
22 Petition Interest

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2 HEARING re Debtors' Twenty-Sixth Omnibus Objection Pursuant to
3 11 U.S.C. § 502(B) and Fed. R. Bankr. P. 3007 to Certain (A)
4 Duplicate or Amended Claims, (B) Untimely Claims Not Reflected
5 on Debtors' Books and Records, (C) Untimely Claims, and (D)
6 Claims Subject to Modification and Modified Claim Asserting
7 Reclamation

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9 HEARING re Debtor's Twenty Seventh Omnibus Objection Pursuant
10 to 11 U.S.C. § 502(B) and Fed. R. Bankr. P. 3007 to Certain
11 Claims to Implement Cure Payments and Modify General Unsecured
12 Claims by Amount of Cure Payments

13

14 HEARING re (A) Authorizing and Approving (i) Sale of Certain of
15 Debtors' Assets Comprising Substantially All of the Assets of
16 Steering and Halfshaft Business Free and Clear of Liens,
17 Claims, and Encumbrances, (ii) Assumption and Assignment of
18 Certain Executory Contracts and Unexpired Leases, and (iii)
19 Assumption of Certain Liabilities and (B) Authorizing and
20 Approving Transaction Facilitation Agreement

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2 HEARING re Expedited Motion for Orders Under 11 U.S.C. §§ 363,
3 365, and 1146 and Fed. R. Bankr. P. .2002, 6004, 6006, and 9014
4 (A) (I) Approving Bidding Procedures, (ii) Granting Certain Bid
5 Protections, (iii) Approving Form and Manner of Sale Notices,
6 and (iv) Setting Sale Hearing Date and (B) Authorizing and
7 Approving (i) Sale of Debtors' Assets Primarily Used in
8 Debtors' Bearings Business Free and Clear of Liens, Claims, and
9 Encumbrances, (ii) Assumption and Assignment of Certain
10 Executory Contracts and Unexpired Leases, and (iii) Assumption
11 of Certain Liabilities

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13 HEARING re Expedited Motion for Orders Under 11 U.S.C. §§ 363
14 and 1146 and Fed. R. Bankr. P. 2002, 6004, and 9014 (A) (i)
15 Approving Bidding Procedures, (ii) Granting Certain Bid
16 Protections, (iii) Approving Form and Manner of Sale Notices,
17 and (iv) Setting Sale Hearing Date and (B) Authorizing and
18 Approving (I) Sale By Delphi Automotive Systems LLC of Certain
19 Machinery, Equipment, and Inventory Primarily Used in DAS LLC's
20 Kettering Damper Business Free and Clear of Liens and (ii)
21 Entry into Lease Agreement in Connection therewith

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25 Transcribed by: Lisa Bar-Leib

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1 P R O C E E D I N G S

2 THE COURT: Please be seated. Okay. Delphi
3 Corporation.

4 MR. BUTLER: Your Honor, good morning. Jack Butler
5 and Kayalyn Marafioti from Skadden here on behalf of Delphi
6 Corporation for Delphi's twenty-ninth omnibus hearing. We
7 filed an agenda, Your Honor. We propose to take the matters in
8 the order on the agenda.

9 THE COURT: Okay.

10 MR. BUTLER: Your Honor, the first matter on the
11 agenda, agenda item number 1, is the fourth supplement in
12 connection with the AIP for the first half of 2008 found at
13 docket number 12920.

14 Your Honor, unlike prior AIP hearings, this hearing
15 is unopposed. We have resolved matters with the creditors'
16 committee and a concern expressed by the UAW prior to the
17 commencement of this hearing. I'll describe those in a moment.

18 This, as I indicated, was filed at document number
19 12920. It is a supplement to an earlier KECP motion. It deals
20 with the AIP for the first half of 2009. Under the Court's
21 supplemental order that was entered at docket number 10428 in
22 connection with the third supplemental AIP, Your Honor actually
23 ruled in that order that so long as we had a confirmation order
24 that was entered in prior to February 29, 2008, we were not
25 required to come to court for this hearing. Given what I think

1 are rather sort of extraordinary circumstances in the markets
2 and otherwise and the steps we're making, we really believed
3 that while we were well within the debtors' rights under the
4 order, that the spirit of working with our committees on these
5 issues really suggested that we should file this motion and in
6 an abundance of transparency. But this order does have a
7 series of provisions in it, which I'll go through, which have
8 not been in prior orders which have been negotiated with the
9 creditors' committee and in one case with the UAW to deal with
10 various contingencies.

11 And before moving forward with that, I think I will
12 just say -- make one statement generally about dates. We
13 are -- there are a number of motions that are before Your Honor
14 today, I think all of them unopposed, that deal with various
15 contingency dates. Some dates refer to what happens on or
16 before May 31st. Other dates refer to what might happen on or
17 before August 15th if there's no emergence. Now the reason why
18 I say it at the outset of this record, these are contingencies
19 that have been worked out with the statutory committees that do
20 not, in any way, reflect the debtors' or the committee's or
21 anyone else's view of the emergence date in these cases. We
22 actually are working twenty-four/seven to close as soon as
23 practicably and emerge from Chapter 11. We are targeted
24 towards an April 4, 2008 closing. We have made substantial
25 progress on our exit financing. And when the syndication of

1 that is completed, we will be making further announcements
2 about that. And I simply want to say, as we go on this record
3 and talk about procedural matters which the debtors as
4 fiduciaries are obligated to bring before the Court on a
5 variety of different issues, that that should not be
6 interpreted in anything other than what it is, which is the
7 debtors fulfilling what we believe to be our fiduciary
8 responsibilities and having thought about these issues with our
9 statutory committees.

10 THE COURT: Right. You're just being careful.

11 MR. BUTLER: Just being careful. And so in
12 connection with the AIP that we have for the first half of
13 2008, there are a couple of provisions in the proposed order,
14 the amended order, which I want to cover with you. And then I
15 want to briefly proffer Mr. Sheehan in connection with how the
16 targets in this particular matter were calculated. Because
17 this is not a contested hearing, we did not submit declarations
18 by all the various parties including the chair of our
19 compensation committee.

20 The two provisions I wanted to focus on, first, the
21 creditors' committee adjustment authority. There is an
22 opportunity here for the creditors' committee to analyze the
23 debtors' performance for the first half if the debtors do not
24 emerge from Chapter 11 on or before August 15th, 2008. And
25 they have the opportunity to look at how we performed and any

1 adjustments we made to EBITDAR performance relating to the
2 debtors' agreements with our labor unions and General Motors
3 Corporation, the timing of emergence from Chapter 11 or other
4 runoff adjustments. This is because, Your Honor, where all
5 this is based, as Mr. Sheehan's proffer will indicate, is based
6 on the business plan that Your Honor found feasible in
7 connection with the confirmation hearing which assumed an
8 emergence date which has passed. And as we move into 2008, we
9 have to make adjustments for the fact that, you know, we
10 haven't eliminated OPEB; we haven't done different things.
11 There are still -- we haven't completed the transactions under
12 either MOUs, the labor MOUs, or under the plan. And therefore,
13 we have to account for those and think about them. A fresh
14 start accounting is going to happen in a different place. A
15 variety of different things that were assumed aren't going to
16 happen quite on the day that they were assumed. So that's
17 necessitated making adjustments. The committee wants the
18 opportunity, if we are still in Chapter 11 on August 15th,
19 prior to payments under this plan to look at all the
20 adjustments that were made relating to GM and labor that were
21 variances. Those are the variances now from what was in the
22 plan. That's what they look at, are the variances. And any
23 adjustments we made, other adjustments we made in connection
24 with emergence. And there's a chart that's attached to the
25 order, the kinds of things that would be examined. And if they

1 have a reasonable disagreement with us about we calculated
2 those, the order provides that the committee and the debtors
3 will sit down and use good faith efforts to resolve those
4 issues. And if they can't be resolved, the committee would
5 have the ability to adjust EBITDAR performance for purposes of
6 calculating the AIP by up to 150 million dollars. But unlike
7 the last AIP period, its' not a discretionary 150. The
8 adjustments have to be related to the disagreements that they
9 had. So if they point to a particular -- you know, you
10 shouldn't have taken this thirty million dollar adjustment. We
11 can't resolve it. If they choose to make an adjustment, it
12 would be up to the thirty million, for example. They would
13 have the ability to do that. And, like the prior AIPs, those
14 adjustments cannot be used to decrease EBITDAR performance
15 below the EBITDAR target. That mechanism is described in some
16 detail in connection with the plan -- with the proposed order.

17 There are two other elements in the proposed order
18 that are different from prior orders. One, there is a
19 provision that if, in fact, during the period before the time
20 AIP is paid -- again, I think, tying it to August 15th, 2008 --
21 the company emerges from Chapter 11, then the post-emergence
22 board, which will have been installed pursuant to Your Honor's
23 confirmed plan, they can have the ability to look back and make
24 whatever adjustments they believe are appropriate at that time.
25 So to the extent that we emerge and the new board of directors,

1 new compensation committee, looks back, decides to make
2 adjustments in order to -- that they believe are in the best
3 interest of the company at that time, they can do that.
4 They're not bound by this order and they can do it
5 retroactively. And that can go any number of ways. They can
6 change some of the criteria that may be disadvantageous to
7 management. They in fact can decide that to maintain the
8 incentive purposes of their plan, they want to make other
9 adjustments. All of them are supposed to be centered around
10 what they believe -- what that board believes and the
11 compensation committee of that board believes would maintain
12 the incentive nature of the program.

13 There is then a third element here which is if the
14 debtors do not emerge from Chapter 11 between -- by August 15th
15 and the current compensation committee determines that it's in
16 Delphi's best interest to make further adjustments to the AIP,
17 that we will review those adjustments with the creditors'
18 committee and if they don't object, they can be implemented at
19 that time. This is an opportunity for the company and the
20 belief that if the company is not able to emerge over the next
21 six months and if there are events and circumstances that, for
22 example by illustration, would suggest that the company might
23 off the cliff of the compensation -- this is a cliff program
24 or, you know, a dollar less than the target means you get paid
25 nothing -- that under those circumstances, given what's going

1 on in the economy and the industry, that we would have the
2 opportunity to go to the committee after our comp committee
3 makes suggestions to go to the committee and the committee
4 doesn't object to it to implement those suggestions.

5 In reviewing that with the UAW, they thought it was
6 important that there not be, if you will, sort of unmitigated
7 authority to be able to do that. And we've agreed that in
8 those circumstances, the maximum amount that could be used to
9 pay AIP would be a pool of money that would be not more than
10 125 percent of the aggregate target opportunities Your Honor is
11 approving today.

12 So Your Honor is -- the estimate in the motion is,
13 and these are approximate numbers, those opportunities are 21.2
14 million. That would mean that the pool that could be paid
15 under those circumstances if you had those adjustments couldn't
16 be more than 25.5 million or so. Those are approximate
17 numbers. So you couldn't have a situation where in those
18 extraordinary circumstances that the company could come in and
19 with the committee arrange for 175 percent payout or a 200
20 percent payout. That's not what the spirit of the program is.
21 But it was intended to say that if the committee as a co-
22 fiduciary agreed with the compensation committee that there
23 ought to be an adjustment made -- I'll give an example. With
24 the American Axle strike that's going on right now which is
25 shutting down the industry --

1 THE COURT: So -- let me make sure I understand. The
2 adjustment is based upon the lower opportunity, not the maximum
3 opportunity?

4 MR. BUTLER: Correct. It's based on target.

5 THE COURT: Okay.

6 MR. BUTLER: And the pool that you could use can't
7 exceed more than 125 percent of the lower target pool.

8 THE COURT: Okay.

9 MR. BUTLER: So that right now I think it indicates
10 that there is -- right now I think we say the maximum that
11 could be paid would be close to -- between thirty-eight and
12 forty million dollars under the program we're asking you to
13 approve today. If those adjustments were actually implemented
14 under paragraph 9, the maximum pool would be around twenty-five
15 million dollars.

16 THE COURT: Okay.

17 MR. BUTLER: It would be less than this program. And
18 again, it's intended to try to address exigencies of non-
19 emergence. In fact, that's where the company is at. So those
20 three mechanics are in this AIP that are different than what
21 is -- than had been discussed in prior AIPs.

22 Your Honor, I'd also like to briefly proffer Mr.
23 Sheehan in connection with how these particular targets were
24 calculated as well. Because this is also different, this AIP,
25 because we actually have a confirmed plan and a business plan

1 that was submitted as Appendix C to the disclosure statement.

2 And we want the Court and the record to indicate how these fees
3 were calculated.

4 So if Mr. Sheehan were called to testify, he would
5 testify as follows: that the financial targets for the first
6 half of 2008 are, in his opinion, reasonable and appropriate
7 that consistent with prior periods, Delphi's corporate level
8 EBITDAR target was not developed specifically for compensation
9 purposes but rather was derived from Delphi's business plan
10 that was attached to the debtors' first amended disclosure
11 statement that was approved by this Court as Appendix C to that
12 disclosure statement. In setting the EBITDAR target for the
13 first half of 2008, the debtors made adjustments based on the
14 addition of earnings forecasted for the steering division that
15 were not included in the Appendix C because the Appendix C
16 assumed that the steering business would be sold as of December
17 31, 2007. Second, a change in accounting treatment with
18 respect to the gain or loss on the debtors' sale of the
19 steering business; and third, the debtors' current expectations
20 regarding the timing of their earnings in 2008.

21 Mr. Sheehan would testify that the Appendix C
22 included the business plan on an annualized basis. And in
23 connection with preparing the AIP targets, the debtors reviewed
24 with the creditors' committee the first half/second half
25 allocation of those earnings.

1 Mr. Sheehan would also testify that at the division
2 level, the debtors' OBITDAR targets were derived from the
3 division's operating income under the business plan for the
4 first half of 2008. And as for the corporate level EBITDAR
5 target, Mr. Sheehan would testify that the OBITDAR targets were
6 not the result of a special process related to the AIP but were
7 rather drawn from the same business plan used by the debtors
8 and managed in their day-to-day operations of the business.

9 Mr. Sheehan would testify the overall cost of this
10 program is, in the debtors' view, reasonable in the context of
11 the debtors' assets, liabilities and earning potential. He
12 would testify the aggregate target opportunities available
13 under the AIP are approximately 21.2 million. That would be at
14 a hundred percent of meeting the target. This represents less
15 than twenty-five basis points of the debtors' total assets as
16 of December 31, 2007 and less than one basis point of the
17 debtors' total -- actually, one-tenth of one basis point of the
18 debtors' total liabilities of twenty-three billion dollars as
19 of that date.

20 Mr. Sheehan would testify with respect to potential
21 earnings. The aggregate target opportunity of approximately
22 21.2 million to approximately 2.4 percent Delphi's corporate
23 level EBITDAR target of 87.17 million dollars for the first six
24 months of the year and the aggregate maximum opportunity, if
25 there are no adjustments under paragraph 9 of the order, would

1 be approximately 39.1 million, which is approximately three
2 percent of the what would be an additional 1.3 billion in
3 EBITDAR associated with that maximum opportunity because,
4 obviously, there would be increased earnings for the company.

5 Your Honor, that would be the sum and substance of
6 Mr. Sheehan's testimony.

7 THE COURT: Okay. Does anyone want to cross-examine
8 Mr. Sheehan? All right. So am I right then that the only
9 adjustments to the business plan figures were the ones that you
10 described?

11 MR. BUTLER: Yes, Your Honor.

12 THE COURT: And then my only other question was and I
13 did not go back and look at the plan document on this. This
14 six-month proposal, does it -- is it within -- or within the
15 contemplation of the compensation arrangements for the
16 executives that were provided for in connection with the plan?

17 MR. BUTLER: Yes, Your Honor. There was a plan --
18 under 7.8 of the plan, there was an STP program for a short-
19 term program and this would be the first half of that program.

20 THE COURT: Okay. And this is consistent with that?

21 MR. BUTLER: Yes.

22 THE COURT: That it had been previously discussed
23 with the investors and the other --

24 MR. BUTLER: Yes. It's consistent. The difference
25 would be, I think, post-emergence perspective, the metrics that

1 would be likely used by the compensation committee -- you may
2 recall under the program that was adopted, the compensation
3 committee of the board of directors which set the actual
4 metrics, the framework of the system was designed, the targets
5 and all of that and how it worked. But the metrics would be
6 used. The metrics were not specified in 7.8 of the plan. And,
7 frankly, had the company been able to emerge prior to March
8 31st on that time, that compensation committee could have made
9 those decisions under the plan. But the plan requires you make
10 those decisions at some point before the period's over --

11 THE COURT: Right.

12 MR. BUTLER: -- and that's why we filed the motion.
13 So the metrics we've chosen to use here are the same metrics
14 we've used throughout the Chapter 11 case.

15 THE COURT: So it's certainly consistent with what
16 was contemplated except for the entity that would be making the
17 ultimate decision?

18 MR. BUTLER: Yes, Your Honor.

19 THE COURT: Okay. All right. Does anyone have
20 anything further to say on this motion? Okay. I've reviewed
21 the motion as well as the revised order that reflected the
22 agreements that Mr. Butler outlined with the creditors'
23 committee and the UAW. And in light of that review and there
24 being no objections, I'll approve the motion.

25 MR. BUTLER: Thank you, Your Honor. Your Honor, the

1 next matter on the docket -- the agenda is agenda item number
2 2. This is the debtors' motion to further extend exclusivity.
3 It is at docket number 12921 and the motion is unopposed.

4 By this motion, Your Honor, as a precautionary
5 measure, the debtors are requesting a two-month extension of
6 the exclusivity periods asking the Court to extend the
7 exclusive time to file the plan of reorganization through and
8 including May 31, 2008 and the exclusive time by which to
9 solicit acceptances of the plan through and including July 31,
10 2008.

11 As we've indicated to Your Honor on prior records
12 that previewed the filing of this motion, the debtors have done
13 this as a precautionary measure only. We have a plan of
14 reorganization that has been prosecuted and confirmed -- that
15 achieved confirmation with the support of eighty-one percent of
16 our voting creditors and seventy-eight percent of our voting
17 shareholders. And we are continuing to pursue the consummation
18 of that plan.

19 We also recognize under Section 1129(c) of the
20 Bankruptcy Code that as a technical matter, the bankruptcy
21 court can only confirm one plan of reorganization and -- so
22 this is really a precautionary measure. But in reviewing this
23 and reviewing the risks to the estate of having there be any
24 lack of clarity about exclusivity, in the event that the
25 current plan is not consummated, the debtors believed it was

1 prudent to file this motion. As I indicated, it's been
2 reviewed with our statutory committees and with other
3 stakeholders. No objections have been filed.

4 THE COURT: Okay. Does anyone want to say anything
5 on this motion? All right. I've reviewed it and the motion
6 clearly sets forth cause for, as you said, a precautionary
7 extension of exclusivity so I'll grant that.

8 MR. BUTLER: Thank you, Your Honor. Your Honor,
9 matter number 3 on the agenda is our motion to extend the Rule
10 4(m) time for services of summonses relating to avoidance
11 actions that were filed under the preservation of the estate
12 claims procedures order. This motion is filed at docket number
13 12922 and this motion is also unopposed.

14 Essentially, Your Honor, what we're asking you to do
15 is to extend the time for an additional sixty days for
16 summonses to be served in connection to serve a complete
17 process in connection with all of the individual adversary
18 complaints that were filed under the estate claims procedures
19 order. And you previously had granted us an extension through
20 March 31, 2008 and that was slightly less than sixty days
21 beyond the 120-day deadline set forth in Federal Civil
22 Procedure 4(m). And that rule does provide -- in the case law
23 interpreting it, it does provide the opportunity for the
24 plaintiffs to come in and establish cause with the Court as to
25 an appropriate extension of those summonses.

1 Under case law here in the Southern District, this
2 Court has discretion to extend the 120-day service period and
3 it is a discretionary matter. And it is particularly seen as
4 good cause when there is a reasonable belief that future events
5 would likely obviate the need to serve the complaint and
6 prosecute the actions. That can be -- is obviously, Your
7 Honor, in this case, I think, self-evident. Upon the
8 confirmation of a plan, I believe all but one, possibly two of
9 those matters, would end up not being pursued. They would end
10 up being dismissed as of the effective date and would not be
11 pursued. Similar relief of this nature has been granted in
12 other cases -- Chapter 11 cases in this district, including in
13 the Ames Department Store case in 2004 where a further
14 extension was granted at docket number 2524 in that case.

15 Your Honor, we believe that there is no reason to
16 move forward with the service of summons with respect to the
17 742 adversary proceedings that are under seal. We would ask
18 Your Honor to give us an additional sixty days through May 31st
19 to address that issue.

20 THE COURT: Okay. Does anyone have anything to say
21 on this motion? All right. I had one question and you alluded
22 to this. The plan did reserve or retain the ability to pursue
23 a very small number of avoidance actions. And my question is
24 with regard to that small group, have the debtors determined,
25 assuming the plan goes effective, that those will definitely be

1 pursued or is that still something they're analyzing in light
2 of the cost of pursuing it versus the net gain of a victory --

3 MR. BUTLER: I think, Your Honor --

4 THE COURT: -- or potential victory?

5 MR. BUTLER: -- those are still under analysis. They
6 were retained because of the unique circumstances that were
7 pled in those particular proceedings. And I don't think a
8 final decision has been made as to whether those would actually
9 be pursued. But obviously, we did make -- we did do enough
10 analysis to decide that as opposed to the other 740 odd actions
11 that these should be retained for that purpose.

12 THE COURT: Did those defendants get notice of the
13 motion?

14 MR. BUTLER: Everyone received notice of the 4(m)
15 motion, I believe. Let me make sure. Is that -- I want to
16 just double check with my folks. It went to the 2002 services,
17 I know for sure. Just give us one second, Your Honor.

18 THE COURT: Okay.

19 MR. BUTLER: Your Honor, I'm almost certain that they
20 would have not gotten individualized notice unless they were on
21 the 2002 list.

22 THE COURT: Okay.

23 MR. BUTLER: And the reason for that is I'm not sure
24 they know about the existence of the pleadings.

25 THE COURT: All right. Well, I debated whether to

1 have you settle the order on those -- that handful of people.
2 I mean, normally, no one wants to have litigation be activated
3 but I think the rationale potentially for them is a little
4 different than the others. So I think I'll -- particularly, if
5 we're not sure whether they got the notice.

6 MR. BUTLER: Your Honor, I think -- let me just --

7 THE COURT: If they're on the 2002 list, you don't
8 need to settle it. If they weren't -- they weren't served with
9 it, I'd like you to settle it as to the handful of people that
10 the plan at least contemplates would be pursued.

11 MR. BUTLER: Right.

12 THE COURT: With regard to the vast majority, all the
13 others, clearly there's a good basis for not activating that
14 litigation. It would be moot upon consummation of the plan.

15 MR. BUTLER: We'll do that, Your Honor. And the
16 existence of those folks is obviously that that exhibit to the
17 plan is public. So everyone knows what that retention is.
18 So --

19 THE COURT: Right.

20 MR. BUTLER: -- we will deal with that and we will
21 settle the order. If they're not --

22 THE COURT: You can do it five days notice.

23 MR. BUTLER: Okay. Thank you, Your Honor.

24 THE COURT: Okay. If they're not on the 2002 list.

25 MR. BUTLER: Thanks -- thank you, Your Honor. Your

1 Honor, the next matter on the agenda -- and I -- one of the
2 things just so the record is straight and I want to go back
3 briefly to item number 1 because I do want to have a record
4 supporting these things, we had previously made it known to the
5 Court and I believe the Court has considered the exhibits that
6 were part of that matter, 1 through 20. I don't think I
7 actually moved them formally into the record. So, as to item
8 number 1, the KECP motion, I would like to move the twenty
9 exhibits, which include various of the Court documents, the AIP
10 documents, the adjustment protocol and the other plans
11 including the plan Your Honor referred to in connection with
12 the confirmation hearing that were the basis of the KECP.

13 THE COURT: Okay.

14 MR. BUTLER: So I'd like to move Exhibits 1 to 20 in
15 for that matter.

16 THE COURT: Those will be admitted.

17 MR. BUTLER: Thank you, Your Honor. Similarly, with
18 respect to item number 4, item number 4 on the agenda is our
19 omitted contracts assumption procedures motion. This is at
20 docket number 13029. And, Your Honor, this deals with -- there
21 are no objections, by the way, filed with respect to this
22 matter.

23 This is with respe -- this arises with respect to
24 approximately seventy-five contracts that were identified very
25 late in the process by the company that had not been previously

1 noticed in connection with the plan of reorganization or
2 previously noticed in connection with the steering sale. And
3 the amount of potential cure with respect to these folks in the
4 aggregate is estimated by the company at something
5 substantially less than five million dollars. And the -- but
6 obviously, as it relates to the opportunity to deal with cure,
7 while five million dollars may not be, you know, viewed as
8 material in the size of this case, as Your Honor has observed
9 before, even a million dollars is a lot of money and any cure
10 amount to a particular contract vendee may be, in their
11 circumstance, a lot of money. And when we sorted through this,
12 we believed it was appropriate to establish procedures on how
13 we would address this matter. And we served those proposed
14 procedures on each of the seventy-five parties and no one
15 objected to the procedures that we're trying to move forward.

16 We have -- we have a declaration from Mr. Sheehan
17 which has been submitted to the Court in connection with this
18 matter, which is Exhibit 1 to the evidentiary index. There are
19 an additional five exhibits that were identified on the
20 exhibits list for this hearing. Your Honor, I'd like to move
21 admission of those exhibits including Mr. Sheehan's declaration
22 in support of the motion.

23 THE COURT: Okay. No objection and I've reviewed
24 them so they're admitted.

25 MR. BUTLER: And, Your Honor, I present Mr. Sheehan

1 for either cross-examination by anyone who wants to raise -- no
2 one filed an objection but if there are any questions Your
3 Honor may have about the cause for the entry of this order.

4 THE COURT: Well, it's not a question as to the cause
5 'cause as I understand it, there's a potential purchase price
6 adjustment with this sale and these contracts are important to
7 the business. So I'm assuming that this would be money well
8 spent 'cause it would affect ultimately the potential for a
9 purchase price adjustment --

10 MR. BUTLER: That's exactly right, Your Honor.

11 THE COURT: -- to happen. But my question is that
12 there was a -- the second aspect of the relief sought would
13 avoid a double recovery cure and discount rights?

14 MR. BUTLER: Yes, Your Honor.

15 THE COURT: And which made perfect sense. But then I
16 looked at the order and the order said that the debtors can act
17 on their discretion on that. And I just -- why wouldn't you
18 always prevent the double recovery?

19 MR. BUTLER: No, I think we would prevent the double
20 recovery --

21 THE COURT: Okay.

22 MR. BUTLER: -- in all matters, Your Honor. I think
23 the -- and just to say it, Your Honor, so this record is clear
24 'cause I've spent some time personally thinking about this, the
25 reality is, and I don't want the Court to not have the full

1 picture here, the reality is that there is -- the odds for a
2 double recovery here only exist to the extent that these
3 particular parties took the precautionary measure of filing a
4 proof of claim with respect to their executory contracts. If
5 they didn't file a protective proof of claim early in the case,
6 they never would have gotten into the process for the rights
7 offering to begin with. And that is a -- that's a defect that
8 I certainly regret but it is what it is. I mean, the reality
9 is the company didn't identify these particular contracts.
10 They were not included in that process or in the sale process.
11 We want the Court to be clear on that point. And what we --
12 what that means is that they are -- the default for these folks
13 is cash as opposed to the opportun --

14 THE COURT: Well, that's not a bad default, though.

15 MR. BUTLER: Right. And so -- and we're --

16 THE COURT: At least they get paid in full.

17 MR. BUTLER: And I would just point out that that's
18 what 365 would require. You know, thinking about it separately
19 quite apart from the plan process.

20 THE COURT: Right.

21 MR. BUTLER: But I just want Your Honor to be aware
22 of that so that it's not -- I'm not sure how much that
23 mechanism will actually be invoked in the first instance but we
24 did want to provide the safeguard of preventing against double
25 recoveries.

1 THE COURT: Okay. All right. Again, the motion is
2 unopposed and based on my review of it, it seeks appropriate
3 relief. So I'll grant it.

4 MR. BUTLER: Thank you, Your Honor. Your Honor,
5 matter number 5 on the agenda is the objection to the post-
6 petition interest rate notice at docket number 12833. There
7 were at the time we -- under the plan, we distributed notices
8 actually pursuant to the solicitation procedures order to many
9 thousands of people dealing with Class C general unsecured
10 claimants informing them that they would receive post-petition
11 interest at the Michigan statutory rate as prescribed in the
12 plan unless they filed the instructions and a notice pursuing
13 the application of some other contractual rate.

14 We received some 1200 odd responses back to that
15 notice but at the end of the day, only fifty-five of those
16 disputed the application of the Michigan statutory rate. Forty
17 of those are represented in two responses to our objections
18 that were filed, one by Liquidity Solutions at docket number
19 13094 and one by Riverside Claim, LLC at docket number 13097.
20 As a result, Your Honor, we actually could proceed today and
21 deal with fifteen with those for which no response was filed.
22 We're not going to do that, Your Honor, because -- rather we're
23 going to ask Your Honor to adjourn this to a date to be set
24 post-consummation because in our own careful review of our
25 disclosure statement and plan regarding these matters, there

1 was a description in the disclosure statement that would
2 indicate that these disputes as relates to post-petition
3 interest rate arguments, these contested matters would be dealt
4 with post-consummation. Now the plan doesn't say that directly
5 and the solicitation procedures order doesn't say that
6 directly. The disclosure statement does say that. And I
7 believe that there is a reasonable opportunity for those
8 fifteen parties who didn't respond to this to be able to rely
9 on the procedures we had established. There's no prejudice to
10 the estate that I can think of in trying to address those
11 fifteen today. I think the majority of those fifteen, in
12 looking at them, actually, I think, are -- didn't file
13 responses because I think they've concluded that perhaps
14 there's nothing to contest. We can resolve that on a one off
15 basis with each of them and we'll seek to do that.

16 But I think, Your Honor, that it is important unless
17 we otherwise have good cause or some reason to be able to
18 explain why circumstances have changed, I think that we, as a
19 debtor-in-possession, need to follow the procedures that we've
20 laid out to people.

21 THE COURT: So as far as the relief you're seeking
22 today, it's simply an adjournment?

23 MR. BUTLER: I think, Your Honor, all I would seek is
24 an adjournment. The forty and the fifty-five objections, that
25 was already going to happen for --

1 THE COURT: Okay.

2 MR. BUTLER: That was with respect to Liquidity and
3 Riverside Claims. I think just out of an abundance of caution
4 to give deference to the procedures that were described in the
5 disclosure statement that as to the remaining fifteen we should
6 do the same even though they didn't file a response. We'll
7 deal with all of these at a hearing to be decided post-
8 consummation. And we will notice all fifty-five of them as to
9 that hearing date once we establish it. But in --

10 THE COURT: So perhaps the omnibus date in May?

11 MR. BUTLER: Yes, Your Honor.

12 THE COURT: Okay. That's fine.

13 MR. BUTLER: Thank you. And so we'll -- for
14 purposes, Your Honor, of this record then, we'll carry it to
15 May and deal with it at that point.

16 THE COURT: Okay.

17 MR. BUTLER: Thank you. Item number 6 on the agenda,
18 Your Honor, is the debtors' twenty-sixth omnibus objection
19 filed at docket number 12686. This is the first of two omnibus
20 objections. We have the twenty-sixth and twenty-seventh for
21 hearing today. They're set in separate objections because the
22 relief sought is different in the two and we wanted to clarify
23 what they were.

24 The twenty-sixth objection is our normal monthly
25 omnibus objection. And I'm pleased to report we're getting to

1 the end of these normal objections and the fact that the normal
2 claims administration process is largely -- at least the
3 initial round of reviewing all these claims has been largely
4 completed.

5 This particular objection, at docket number 12686,
6 has thirty-eight proofs of claim on the objection. And we
7 received ten timely filed docketed responses and one undocketed
8 response. And those eleven responses cover seventeen proofs of
9 claim in the amount of approximately 24.2 million. In
10 accordance with our prior custom, we will, Your Honor, adjourn
11 those seventeen claims with Your Honor's permission to the
12 claims track and we'll deal with those as we have under the
13 claims procedures order. They'll be noticed for hearing by the
14 claims team as we work through those contested matters.

15 As it relates to today's relief, we're seeking relief
16 with respect to the uncontested portion of the objection.
17 Those cover twenty-one claims in the asserted liquidated claims
18 amount of about a million dollars. We're seeking to expunge
19 twenty of them which have total claims of about 920,000
20 dollars. And with respect to the one remaining claim, we're
21 seeking some relatively de minimis adjustments including
22 reducing the amount of that claim by a thousand dollars down to
23 78,000 dollars. We've sent out particularized notice of this
24 hearing and if Your Honor grants relief, we will send out
25 particularized notice of the relief granted today.

1 THE COURT: Okay. Well, based on the omnibus
2 objection, the debtors have shifted the burden back on the
3 claimants and given the individualized notice. And there being
4 no objection by those that you're seeking to deal with today,
5 I'll grant that objection.

6 MR. BUTLER: Thank you.

7 THE COURT: As a scheduling matter, I noticed that
8 Dayton, in their response, requested reconsideration of an
9 earlier order finding their -- another claim late. They say
10 they didn't get notice of the bar date. They don't give an
11 affidavit or anything but they just say that. So I think in
12 your scheduling, you should probably assume that that matter
13 will get heard at the same time.

14 MR. BUTLER: Yes, Your Honor. Your Honor, the next
15 matter on the agenda then is matter number 7. This is the
16 twenty-seventh omnibus objection. And this we set out
17 separately because this is really dealing with the
18 reclassification of a portion of certain claims that pertain to
19 certain executory or unexpired leases that we are assuming
20 under the plan or under the sale of the steering business or
21 bearings business. And therefore we're dealing with the cure
22 in a separate class as a priority claim. And the reality of
23 this is we want -- we're just trying to get the mechanics right
24 in terms of our distribution of this. We've set this out to
25 128 -- this debt was 128 claims thirty of which will be

1 satisfied in whole or in part by cures, seventy-two which will
2 be satisfied in whole or in part by cures but were modified
3 pursuant to a prior order and affirms prior omnibus claims
4 ruling. We needed to deal with those. And twenty-six of them
5 have asserted a liability for reclamation claim. We've tried
6 to deal with those issues. So there's 128 claims. They assert
7 approximately 55.9 million dollars. We propose modifications
8 to these claims. And there -- I should say there are three
9 responses that have been filed covering eight proofs of claim.

10 Let me just address those briefly. One of them was
11 filed by Carolina Forge Company, a medial forging company, at
12 docket number 12854. It pertains to claim number 10703. It's
13 been resolved between the parties and the claimants consented
14 to relief requested in this objection. They've withdrawn their
15 objection at docket number 13113.

16 The other two claims, Your Honor, are claims that
17 deal with seven -- get the number right here. Let's see. It's
18 right -- that deal with, I believe, it's seven proofs of claim.
19 And we would adjourn those to the claims track. I do want to
20 address one of those objections and that is the objection of
21 Liquidity Solutions, Inc. at docket number 13093. And in that
22 objection, the principal objection for Liquidity Solutions is
23 that they should get the claim payment, the cure payment, as
24 opposed to the contract counterparty.

25 THE COURT: I've already ruled on this.

1 MR. BUTLER: Several times, Your Honor.

2 THE COURT: Okay.

3 MR. BUTLER: And I believe Liquidity Solutions was in
4 the court when those rulings -- and part of those contested
5 hearings.

6 While we're willing to put, as we have customarily
7 moved everything to a claims track, when we'll send notice of
8 this, we would like with Your Honor's permission to set that
9 particular objection for the next claims hearing which is now
10 April 2nd prior to the consummation of the plan because we'd
11 like to be able to get that issue resolved. And so we would
12 not give notice under the claims procedures order but rather,
13 pursuant to Your Honor's concurrence today, we would give
14 notice to them after this hearing that that matter will be
15 heard at that April 2nd claims hearing.

16 THE COURT: Okay. You should give them a copy of my
17 earlier order. I just -- maybe there's something more to their
18 response than that. But that really seems frivolous to me.

19 MR. BUTLER: Okay. Thank you, Your Honor. The
20 other -- but obviously, as we have before, the relief today
21 we're seeking only relates to totally uncontested matters.
22 That covers 121 claims. If Your Honor grants the relief in
23 this order, there would be 30.8 million dollars reclassified
24 from unsecured to priority as of the effective of the plan
25 because of the cure payments we would be making. And I should

1 say, Your Honor, when we talk about cure payments, even though
2 we change classification, for purposes of counting those claims
3 against the 1.45 billion dollar limitations under the plan, the
4 conditions of the effective date, we still count them against
5 the 1.45 billion because even though we're -- that's just
6 enough of weighing which was negotiated with the plan
7 investors. And so by making these changes, I just want to be
8 clear on this record, this doesn't change how we score staying
9 below the 1.45 billion.

10 THE COURT: Okay. All right. Does anyone have
11 anything to say on this motion? All right. Again, the motion
12 seeks relief only with regard to claims where there's been no
13 objection to the omnibus objection or there's one case been an
14 agreement. I've reviewed the objection. It sets forth a basis
15 in each case for the objection whether it's to avoid a
16 duplicate claim or otherwise. And in light of there being no
17 objection to the relief sought today, I'll grant the omnibus
18 objection.

19 MR. BUTLER: Thank you, Your Honor. Your Honor,
20 matter number 8 today is a continuation of matters that were
21 originally taken up in connection with the steering sale motion
22 at docket number 11390. Your Honor approved that sale at
23 docket number 12868. And in connection with that approval
24 order, adjourned thirty-five objections that were relating to
25 assumption assignment or cure -- and essentially, from the

1 debtors' view, mostly cure, what the cure amounts would be and
2 how to deal with those. Of the 130 -- or, excuse me. Of the
3 thirty-five matters that were adjourned, I'm pleased to report,
4 Your Honor, that twenty-eight of those have been resolved. And
5 I won't go through each of those on this record. I would
6 simply note that in each case, there was either a filing made
7 on the record that withdrew the objection or there was a
8 stipulation that was entered that has been docketed. And so as
9 to each of those twenty-seven matters, or twenty-seven
10 objections, there is evidence on the record on the docket of
11 how those were resolved.

12 There are three of those all dealing with Furco
13 Electric Company that may not yet be docketed. I don't have
14 the docket numbers. But we have written confirmation that
15 those have been resolved and those will be docketed shortly.

16 With respect to the other seven, there are -- and I
17 should indicate, by the way, in connection -- one comment. In
18 connection with two of those objections filed by the Timken
19 Company and Timken U.S. Corp. at docket number 12532 and docket
20 number 12652, those were -- there were stipulations that were
21 filed at docket number 13162 that dealt with those. We needed
22 to resolve a defined term in there and there will be an amended
23 stipulation. But it's been agreed on by the parties and it's
24 been signed. So there's nothing --

25 THE COURT: Okay.

1 MR. BUTLER: Just to let Your Honor be aware of that.

2 As to the other seven matters, what we're asking Your
3 Honor to do now is to grant the relief -- and I'll just briefly
4 indicate which ones those are -- to have those taken up at a
5 subsequent hearing. Five of those would be dealt with at the
6 April 2nd claims hearing and two would move to the April 30th
7 hearing.

8 The two moving to the April 30th hearing are American
9 Aikoku, A-I-K-O-K-U, Alpha Inc. at docket number 12369 and
10 docket 12376. And the following five matters would go -- would
11 be adjourned to the April 2nd claims hearing. That would be
12 the du Pont claim at docket number 12464, the Freudenberg-Nok
13 General Partnership claim at docket number 12479, the Hydro
14 Aluminum North America, Inc. claim at docket number 12452, the
15 S&Z Tool & Die claim at docket number 12447. And there's an
16 undocketed claim of S.A. Gebelot, G-E-B-E-L-O-T, Extrusion,
17 which also would go to the April 2nd hearing. Several of those
18 folks had given us e-mail confirmation with respect to April
19 4th. The April 4th hearing's been moved to April 2nd and we
20 notified them of that change in hearing date.

21 THE COURT: Okay. All right. With regard to the
22 resolved ones, I guess that's all being done by separate
23 stipulations? I mean, I've seen a number of them.

24 MR. BUTLER: Right.

25 THE COURT: So there's no order --

1 MR. BUTLER: No. There's nothing to be --

2 THE COURT: No omnibus order.

3 MR. BUTLER: There's no omnibus order to be dealt
4 with.

5 THE COURT: Okay. And as far as the seven that are
6 being adjourned --

7 MR. BUTLER: Would Your Honor wait just one moment
8 please? My colleague, Ms. Henry, reminds me we did submit an
9 order. Your Honor, if you recall, the way we've dealt with
10 these sale orders recently in the last two or three is Your
11 Honor was more comfortable in excluding the findings in some of
12 the other matters of the sale order to the objections we
13 were -- we adjourned and dealt with at the prior hearings. So
14 we did submit an order to Your Honor that actually as to the
15 matters that have been resolved applies.

16 THE COURT: Oh, okay.

17 MR. BUTLER: Brings them back into, if you will, the
18 provisions of the sale order.

19 THE COURT: Okay.

20 MR. BUTLER: And that has been submitted, Your Honor.

21 THE COURT: All right. And then as to the seven, I
22 just would ask you to the extent -- I'm assuming you're still
23 going to be negotiating with these folks. But to the extent
24 you haven't resolved the matters a few days before the
25 scheduled hearing that you'll coordinate with them on

1 submitting either additional exhibits or papers so that I can
2 prepare for the hearing.

3 MR. BUTLER: Yes, Your Honor.

4 THE COURT: Okay.

5 MR. BUTLER: We will do that.

6 THE COURT: All right. Okay.

7 MR. BUTLER: So, Your Honor, just so the record --
8 the Court inclined then to enter the order that the --

9 THE COURT: Oh, yes.

10 MR. BUTLER: -- as it relates to the --

11 THE COURT: Well, it's just implementing the
12 stipulation.

13 MR. BUTLER: Correct.

14 THE COURT: So that's fine.

15 MR. BUTLER: And implementing the prior order of the
16 Court.

17 MR. BUTLER: Right. That's fine.

18 MR. BUTLER: Thank you. Your Honor, the next matter
19 before the Court today is matter number 9. This is the bearing
20 sales motion at docket number 12104. We're here today, Your
21 Honor, asking for approval of the sale of this business to
22 Kyklos Bearing International, Inc. which changed its name from
23 Kyklos, Inc. after the auction, Kyklos being spelled
24 K-Y-K-L-O-S.

25 Your Honor, we were before the Court in January

1 seeking approval of bidding procedures. And on January 25th of
2 this year, Your Honor entered the bidding procedures which is
3 docketed at docket number 12355. This -- the bidding
4 procedures order dealt with a stalking horse bid from ND
5 Acquisition which was an affiliate of Resilience Capital
6 Corporation. And Your Honor may recall that the quantifiable
7 conduct -- or I should -- quantifiable value to Delphi of that
8 which we discussed at that hearing was 44.2 million dollars but
9 there was a twenty-six million dollar adjustment they could
10 take that would actually have brought it down to 18.2 million.
11 And there was not in that bid at that time a supply agreement
12 with respect to General Motors which was one of the things that
13 needed to be worked out in connection with the sale.

14 When we went through the auction, we ended up with a
15 successful bidder of Kyklos, as I described, which -- and the
16 creditors' committee participated with us in that auction. And
17 General Motors was also involved. There is a supply agreement
18 with General Motors in this transaction. The contract is
19 similarly structured. There is a 42.6 million dollar sales
20 price but there is a downward adjustment that could be made so
21 that the quantifiable value could be 18.7 million there. The -
22 - and that is exclusive of -- or accounts for the breakup fee
23 at 1.5 million dollars. So that quantifiable value is net of
24 any breakup fees that would be payable to the estate -- by the
25 estate in connection with this transaction.

1 I should point out to Your Honor also in connection
2 with this transaction that after the auction and in connection
3 with the auction, we also received, by the way, an alternate
4 bid from WNB Acquisition which is an affiliate of Wen -- I
5 think it's the Wen Sheng Company. And that -- after the
6 auction was concluded and Kyklos was identified as the
7 successful bidder, the debtors did receive an unsolicited joint
8 alternative bid from ND Acquisition and WNB Acquisition. So
9 the stalking horse bidder and alternative bidder got together,
10 submitted a proposed bid that would have provided as much as an
11 additional 2.8 million dollars to the estate because they would
12 have waived the breakup fee and paid the initial 1.3 million
13 dollars. So depending on how you want to count it, it's 1.3
14 million additional value for us because as you sort of look to
15 it, 2.8, if you consider the breakup fee, we'd be paying under
16 Kyklos.

17 That was looked at by the company and rejected after
18 consulting with the equ -- the credit committee, rather, on at
19 least two grounds. One, that, most importantly to the debtors
20 is it was an out of procedures bid. We had conducted an
21 auction in connection with Your Honor's bidding procedure
22 order. The parties had an opportunity to participate at the
23 auction. There was a successful decided at the auction and
24 a -- you know, a bid subsequent to the auction is, in the
25 debtors' view, even if the bid facially provides more value, a

1 bid too late in time. To do otherwise as a debtor-in-
2 possession would essentially -- not only would it not give
3 credence to Your Honor's directions but it would turn the
4 auction process and these Section 363 transactions on its head.
5 The other thing that was material to us but less material was
6 the fact that there was no GM supply agreement and therefore
7 there was no basis even to think about the transaction. But
8 the sort of gaiting issue for the debtors was what I would call
9 an out-of-sequence bid.

10 THE COURT: Is the existence of a supply agreement a
11 condition to closing?

12 MR. BUTLER: Well --

13 THE COURT: Or is it just to improve the chances of
14 getting the higher price than the eighteen plus.

15 MR. BUTLER: I think impro -- well, as it relates
16 to -- as I recall in the joint bid that came in, and I didn't
17 spell it out to them as I'm thinking about it because I was out
18 of time but my recollection is they waived the supply agreement
19 requirement.

20 THE COURT: But it still affects the price?

21 MR. BUTLER: Well, it would still --

22 THE COURT: The ultimate price?

23 MR. BUTLER: It would affect the ultimate price but,
24 I mean, you could argue, Your Honor, that the -- which one of
25 the -- you can argue that if they were going to close without a

1 supply agreement and all that business was to move forward and
2 there was no risk to the company, to Delphi, in connection with
3 having an unhappy General Motors about that transaction, and
4 all the transitions would have to go on when you transition the
5 business, if you assume all of that doesn't mean anything from
6 a value perspective, then you can argue that the bid was in
7 fact facially better.

8 THE COURT: Well, but again, there's a potential
9 eighteen plus million as before --

10 MR. BUTLER: Right.

11 THE COURT: -- but it can go up to forty-four --

12 MR. BUTLER: Right.

13 THE COURT: -- and if you don't have a supply
14 agreement, it seems to me it's unlikely it's going to go up to
15 forty-four.

16 MR. BUTLER: I think that is -- I think that is a
17 reasonable inference, Your Honor. But again, from our
18 perspective, it's very difficult for the debtors to consider a
19 bid by bidders who participated in an auction or had the
20 opportunity to, were unsuccessful at the auction and then
21 subsequently team up with each other and say I'll give you
22 another bid. I mean, just it's very hard -- and there's a fair
23 amount of case law in this district and otherwise about whether
24 such a bidder in those circumstances can even be viewed to be a
25 good faith bidder for purposes of the Court making the findings

1 under 363.

2 THE COURT: Okay.

3 MR. BUTLER: So we did not. But I wanted the Court
4 to know that as part of this record.

5 In terms of the evidence for this record, we have
6 submitted a declaration from Mr. Sheehan and a series of other
7 documents that have been listed on the exhibit list, dockets --
8 items 1 through 30 on the exhibit list, number 1 being Mr.
9 Sheehan's declaration. And I would move those matters into
10 evidence at this hearing.

11 THE COURT: Okay. I'll do that. I just want to
12 confirm, Kyklos is not an insider, right?

13 MR. BUTLER: No. Kyklos -- no.

14 THE COURT: And nor with the other two bidders?

15 MR. BUTLER: That's correct. No one here, Your
16 Honor, is an insider. And Kyklos is an affiliate of KPS, one
17 of the funds, investment funds. I think it's got a longer
18 name. Mr. Thomas is here. Maybe he could tell me what the
19 name is. It's got a long name as far as the actual name but
20 it's KPS, the way I'll refer to it. Your Honor -- and Mr.
21 Sheehan's available if Your Honor has any questions or if
22 anyone wants to cross-examine him.

23 THE COURT: All right.

24 MR. BUTLER: Although I should say on the objection
25 point, we have resolved all of the objections. They've either

1 been withdrawn from the record or submitted by stipulation or
2 dealt with in the order. I would point out that Timken, again,
3 had an objection here and we have resolved that by the last
4 sentence that was added to paragraph 17 of the amended order.

5 THE COURT: So there are no remaining assumption
6 assignment cure issues?

7 MR. BUTLER: No. I think everything is resolved as I
8 understand it.

9 THE COURT: Because you got the bids sufficiently
10 advanced to send out the notice?

11 MR. BUTLER: Yes.

12 THE COURT: Okay. All right. Does anyone have
13 anything to say on this motion? All right. I will grant the
14 motion with regard to the post-auction bid issue. Given that
15 the auction procedures were clear, the prospect of varying
16 those procedures to accept a post-auction bid I believe would
17 open up the estate to -- potentially to serious uncertainty as
18 to this transaction which I understand should proceed
19 expeditiously and very likely create potential liability from
20 Kyklos, although, of course, I'd be doing it instead of the
21 debtor. But I believe the case law is clear that where there
22 is no confusion in connection with the auction itself or the
23 bidding rules and someone simply wants to submit a late bid
24 that absent some other extraordinary circumstance the Court
25 shouldn't consider it. So I'll approve the sale to Kyklos.

1 MR. BUTLER: Thank you, Your Honor. Your Honor, we
2 have one matter we're trying to resolve in connection with the
3 Kettering sale motion at item number 9. Can we take a brief
4 recess at this point? I think we probably need no more than
5 ten minutes.

6 THE COURT: Okay. That's the last one?

7 MR. BUTLER: That's the last matter on the agenda.

8 THE COURT: Yeah. That's fine. How long you think
9 you need?

10 MR. BUTLER: Ten minutes I think would be max.

11 THE COURT: Okay. That's fine.

12 MR. BUTLER: Thank you, Judge.

13 (Recess from 11:03 a.m. until 12:13 p.m.)

14 THE COURT: Please be seated. Okay. Delphi
15 Corporation.

16 MR. BUTLER: Thank you, Your Honor. And thank you
17 for the Court's patience in a longer than expected recess.
18 Your Honor, matter number 9 --

19 THE COURT: 10.

20 MR. BUTLER: Excuse me, matter number 10 in front of
21 the Court today is the Kettering sale motion at docket number
22 13028.

23 Your Honor, this was a -- this is a hearing today to
24 request -- to establish and approve bidding procedures, notice
25 procedures, certain bid protections and to set a sale hearing.

1 And as I'll get into the record in a few minutes, I think Your
2 Honor will understand that what we've been dealing with in
3 terms of reaching a settlement on some items is that there's
4 every possibility that this will be a straddle motion. That is
5 to say, we'll begin this process in Chapter 11 but may complete
6 it outside of Chapter 11. And so there would not perhaps be a
7 sale hearing.

8 THE COURT: Okay.

9 MR. BUTLER: And that has some implications on
10 expense reimbursements and other issues, termination rights and
11 so forth. And we wanted to clarify those with the purchaser
12 and also consulted briefly with the creditors' committee and I
13 described the issues we were working on with Mr. Kennedy from
14 the IUE who has an objection pending which we'll also be
15 addressing in this hearing.

16 Your Honor, the plan here would be that if the
17 company has not emerged from Chapter 11 by April 30th, 2008,
18 there would be a sale hearing at that time. And there's a
19 proposed -- under the terms of the proposed bidding procedures
20 order, we're asking Your Honor to consider today there would be
21 set an April 10th bid deadline, an April 14th auction and a
22 sale hearing on April 30th. And those dates would be followed
23 and that calendar would be followed if we remained under
24 Chapter 11 protection during that period of time.

25 The proposed purchaser in this transaction which

1 deals with the damper business in Kettering is Tenneco
2 Automotive Operating Company, Inc. The proposed purchase price
3 is 18.8 million dollars subject to an adjustment based on
4 inventory value at closing. And the adjustment would be upward
5 or downward to the extent that the value of the inventory at
6 closing was greater or less than 10.2 million.

7 There's a proposed breakup fee which is three percent
8 of the purchase price at 565,304 dollars. There's an expense
9 for reimbursement for actual expenses up to 750,000 dollars
10 capped at that amount and I'll address the expense
11 reimbursement in a few minutes. And there are -- we've also
12 agreed to lease a portion of the Kettering facility to the
13 purchaser for an initial lease term of seven years, with four
14 five-year renewal options based on the rent schedule that is
15 set forth in the agreement. I would point out, Your Honor,
16 that the rent for year 1 is zero. So there is some subsidy
17 obviously in a way in which that transaction has been
18 structured.

19 Your Honor, we received one limited objection to the
20 motion filed by Mr. Kennedy on behalf of the IUE-CWA. And this
21 has, I think, everything to do with the fact that they're not
22 done with their discussions with Tenneco regarding a fully
23 completed bargaining agreement with Tenneco and an effects MOU
24 before the sale process is concluded. I think there have been
25 a difference of view at one point between the debtors and the

1 IUE as to whether that needed to be dealt with before the sale
2 process commenced or needed to be dealt with before it was
3 concluded. And I think Mr. Kennedy wants to address the Court
4 on that point.

5 MR. KENNEDY: Your Honor, we're prepared to withdraw
6 this objection without prejudice to our right to object to the
7 sale at the sale hearing. It is correct that this is a
8 procedures motion. There were some representations which I
9 think for the most part were quite accurate in the company's
10 motion concerning the need for there to be an agreement with
11 the IUE-CWA as a condition of sale. But there was also a
12 statement that there has been a collective bargaining agreement
13 entered into between Tenneco, Inc. and the IUE-CWA. It is true
14 there was a document that was signed in August of 2007 that
15 leaves open a number of issues that are quite important from
16 the point of view of our members. And until those are
17 resolved, it is our position that the IUE-CWA retains the right
18 under its contract with Delphi to object to a sale which does
19 not contain adequate follow-on collective bargaining agreement.

20 THE COURT: Okay. So the union's right to --
21 objection's fully reserved. By withdrawing the objection here,
22 you're not waiving that right in connection with the final --

23 MR. KENNEDY: That's correct, Your Honor.

24 THE COURT: -- closing of the sale.

25 MR. KENNEDY: That is correct.

1 THE COURT: Okay. Or approval of the sale. But it
2 may end up being moot so we'll see.

3 MR. KENNEDY: We'll see.

4 THE COURT: Okay.

5 MR. BUTLER: Your Honor, I do -- I call this the
6 damper business. And more properly, what I really should say
7 is this is actually the sale of assets as opposed to a business
8 line per se. And there are not executory contracts that will
9 be assumed or assigned as part of the transaction here unlike
10 some other transactions we've entered into. This is really a
11 sale of the assets that comprise, I think, from a -- probably
12 say comprised machinery equipment inventory primarily used and
13 located in the damper manufacturing facility in Kettering,
14 Ohio. I just wanted to sort of say it and make that clear.

15 What we had spent some time talking about during the
16 recess, Your Honor, was the circumstances under which the
17 expense reimbursement would be payable. And the issue we were
18 focused on is if the -- one of the circumstances it would be
19 payable is under -- if the articles -- if the agreement is
20 terminated. And if Your Honor were to look at Section 10.2 of
21 the agreement, it provides that there was a termination right
22 in favor of both the purchaser and the debtors if there was not
23 a sale approval order entered by May 23rd, 2008. And then
24 there was a further termination right that would be applicable
25 if the closing occurred within sixty days after the entry of

1 that order.

2 And most of our what I'll call straddle motions that
3 we've had -- there have been a number of them over the last
4 sixty days where we've not been quite sure whether the company
5 would be in or out. We have actually had some other provisions
6 in the document that would address the obligations to procure a
7 sale order if we were to emerge from Chapter 11 because
8 that's -- we're obviously in a place where we wouldn't be doing
9 that. Those provisions did not get into this particular
10 contract as was negotiated on an expedited basis by the party.
11 This particular motion ended up before the Court with the
12 concurrence of the creditors' committee on expedited notice. I
13 don't think there's any question about their view that to be
14 able to obtain this kind of value for these particular assets
15 would be a good thing for the company. And we all want to see
16 this transaction move forward obviously and be completed.

17 But when we were preparing for the hearing today, we
18 were just looking at the different mechanics here. And while
19 I'm sure it was unintended by the purchaser, you could have
20 constructed an approach here where the company emerges in
21 accordance with the agreements we're working on now and on or
22 about April 4th. And that would have given rise essentially to
23 a guaranteed termination payment of 750,000 dollars on the
24 expense arrangement -- up to that amount. They'd have to prove
25 it up but they would have that right because we never could

1 have satisfied these conditions. And we wanted to clarify
2 that. We appreciate Tenneco's cooperation in doing that. They
3 were willing to do that. And the proposed order is being
4 changed in two ways to address that issue. The first is that
5 in connection with the findings in paragraph G, there is in the
6 second line of the findings -- the bid protections are defined
7 as "The breakup fee or the expense reimbursement may be paid in
8 accordance with the terms, conditions and limitations of the
9 agreement." After the word "agreement", we're inserting the
10 phrase "as modified by this order". And then define that as
11 the bid protections. And then paragraph 7, at the end of
12 paragraph 7 of the order, there would be a rider that would be
13 attached that would read as follows, semi-colon, "provided,
14 however, that notwithstanding any provision of the agreement or
15 the motion to the contrary, no expense shall be paid if the
16 agreement is terminated by the purchaser because the bankruptcy
17 court has not entered the sale approval order due to the
18 debtors' emergence from Chapter 11; provided further, however,
19 that notwithstanding any provision of the agreement or the
20 motion to the contrary, no expense reimbursement shall be paid
21 if the agreement is terminated by the debtors, by the seller,
22 because the closing has not occurred on or prior to September
23 30, 2008 and all conditions other than the entry of a sale
24 approval order have been satisfied." And the effect of that
25 provision, basically, makes it so that if the seller -- or

1 rather, the purchaser terminates for some reason, they can't
2 point to the sale approval order as a basis for that and then
3 try and get the expense reimbursement provision. The second
4 proviso when you actually work through the mechanics of the way
5 the termination provisions are written, there would be no
6 outside date by which the debtor could actually terminate or
7 then the emerged company could actually terminate the agreement
8 because the constructs would not have, at least where it
9 changed with paragraph 10.2, would be applicable absent a sale
10 order. So we want an outside date that we would be able to
11 terminate and also have the expense reimbursement provision not
12 automatically paid.

13 And those provisions address the issue, in the
14 debtors' view, of whether -- of trying to make sure that we
15 have taken into consideration the potential of the debtors'
16 emergence in the middle of the process.

17 THE COURT: Okay.

18 MR. BUTLER: There is --

19 THE COURT: It's still the case that the purchaser
20 would only get one or the other, right?

21 MR. BUTLER: Yes.

22 THE COURT: The breakup fee or the expense
23 reimbursement?

24 MR. BUTLER: That's correct.

25 THE COURT: And I guess the only -- I've listened to

1 you as you read. Maybe I've heard this wrong but is it right
2 that the absence of a sale order, even if it's only caused by
3 the company's emergence from Chapter 11 because of the closing
4 and the effective date of the plan, that could still give the
5 party -- the buyer the right to walk?

6 MR. BUTLER: I don't think --

7 THE COURT: That's kind of a strange --

8 MR. BUTLER: Yeah. I don't think that --

9 THE COURT: -- concept.

10 MR. BUTLER: I don't think that was -- I don't think
11 that was the intention, Your Honor. I understand the way in
12 which the -- it was really intended to address the expense
13 reimbursement provision.

14 THE COURT: Right. I mean, it seemed to me that they
15 should at least have a date by which they could walk as opposed
16 to the absence of an order that would be totally fortuitous
17 because of the company emerging.

18 MR. BUTLER: Right. Your Honor, we will -- we'll
19 address that with them prior to the sale hearing in terms of --

20 THE COURT: Okay.

21 MR. BUTLER: -- that issue just to get that
22 clarification. I think that the more important -- what we
23 wanted to do because we're approving the expense reimbursement
24 provision there was to make sure that the -- that this --

25 THE COURT: It wouldn't be treated by this.

1 MR. BUTLER: Correct, Your Honor. And that's the
2 relief today. And we will address the Court's concern on the
3 ultimate termination provision in connection with the sale
4 hearing.

5 THE COURT: All right.

6 MR. BUTLER: A couple of other points, Your Honor,
7 just for the record here. We did submit ten items as part of
8 the evidentiary record including, as Exhibit number 1, the
9 declaration of Mr. Sheehan in support of this motion. I would
10 like to move the admission of those into evidence at this time.

11 THE COURT: Okay. And again, hearing no objections,
12 they're admitted.

13 MR. BUTLER: And I don't know if the Court has any
14 questions of Mr. Sheehan in connection with his declaration.

15 THE COURT: No, I don't.

16 MR. BUTLER: Okay. Your Honor, then unless Your
17 Honor has any other questions about the motion, we'd ask the
18 Court to approve the bidding procedures as they've been
19 modified here on the record and enter the order as it's been
20 modified here on the record that would permit the debtors to
21 proceed to give notice and begin to seek bids for the April
22 10th bid deadline.

23 THE COURT: Okay. And hearing no one else wanting to
24 address the motion, I will approve them. The procedures
25 themselves are in line with what I've previously approved and

1 the alternative breakup fee/expense reimbursement particularly
2 is clarified on the record or also within the range of what I
3 and other Courts in this circuit have approved.

4 MR. BUTLER: Thank you, Your Honor.

5 THE COURT: Okay. So you have -- actually, there's
6 no assumption assignment notice here --

7 MR. BUTLER: No, there is not.

8 THE COURT: that's going out? Okay. All right.

9 MR. BUTLER: All right. I just want to make sure of
10 one other matter, Your Honor. Your Honor, the other -- one
11 other matter on the agenda is in the adversary --

12 THE COURT: Oh, against the IRS.

13 MR. BUTLER: It is. It's item number 11 is the
14 debtors' complaint to recover property of the estate at
15 adversary proceeding number 08-01038. This -- the parties have
16 agreed to adjourn the first status conference, with Your
17 Honor's permission, to the April 30th, 2008 omnibus hearing.
18 There is -- no answer has been filed yet and the parties
19 haven't conducted their own conferences under Rule 26(b) and so
20 we'd ask Your Honor's permission to deal with this on April
21 30th.

22 THE COURT: That's fine.

23 MR. BUTLER: Thanks, Your Honor.

24 THE COURT: Okay. The --

25 MR. BUTLER: That --

1 THE COURT: No, go ahead.

2 MR. BUTLER: I was going to say that's all of the
3 business that we have on the agenda, Your Honor, for the
4 omnibus hearing.

5 THE COURT: Okay. Thank you.

6 (Whereupon these proceedings were concluded at 12:27
7 p.m.)

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| 1-20 | Various documents in support of | | 23,16 |
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KECP motion

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| 1-5 | Various documents in support of | | 24,24 |
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9

omitted contracts assumption procedures

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motion

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| 1-30 | Various documents in support of bearing | | 44,25 |
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sales motion

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| 1-10 | Various documents in support of Kettering | | 54,12 |
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sales motion and bidding procedures

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| KECP motion approved | 17 | 24 |
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| Motion to further extend exclusivity | 19 | 7 |
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| Motion to extend Rule 4(m) time for service | 22 | 9 |
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of summonses relating to avoidance actions

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granted; settle order on 5-day notice with

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defendants pursuing avoidance actions who

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are not on 2002 list

1 I N D E X, cont'd

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11 motion approved

12 Bearing sales motion to Kyklos approved 44 25

13 Kettering sales motion and bidding procedures 54 24

14 approved

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C E R T I F I C A T I O N

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I Lisa Bar-Leib, court-approved transcriber, certify that the
foregoing is a correct transcript from the official electronic
sound recording of the proceedings in the above-entitled
matter.

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March 20, 2008

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Signature of Transcriber

Date

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Lisa Bar-Leib

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typed or printed name

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